

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

DANIEL NELSON,

Plaintiff,

vs.

BEAVERHEAD COUNTY
DETENTION CENTER;
SILVERBOW COUNTY PUBLIC
DEFENDER'S OFFICE; WALTER
HENNESSEY,

Defendants.

Cause No. CV 22-43-BU-BMM

ORDER

Plaintiff Daniel Nelson filed a Complaint alleging violations of his civil rights under 42 U.S.C. § 1983. (Doc. 1.) The Court granted Nelson's motion for leave to proceed in forma pauperis and explained some deficiencies in Nelson's pleading in an Order filed on August 22, 2022. (Doc. 4). The Court gave Nelson 30 days to file an amended complaint. The Court also ordered that Nelson pay a \$350 statutory filing fee from his Lewis and Clark Detention Center institutional account. (Doc. 5.) Nelson did not file an amended complaint. On September 30, 2022, the clerk entered a judgment of dismissal. (Doc. 6.)

On October 3, 2022, the Court received a letter dated September 28, 2022. (Doc. 7.) Nelson requests to voluntarily dismiss the action. He does not wish to

proceed with the lawsuit and asks that the filing fee be waived. (*See* Doc. 7.)

Nelson normally would be “required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1). In this case, however, Nelson’s request to dismiss his lawsuit crossed in the mail with the judgment of denial. The Court deems is appropriate to grant Nelson’s timely request to dismiss his lawsuit. Nelson is not required to pay the filing fee.

Accordingly, IT IS ORDERED:

1. The Clerk of Court is directed to re-open this case to re-enter judgment as of the date of this order.
2. Nelson’s letter (Doc. 7), construed as a Motion to Dismiss, is GRANTED.
3. The Court’s Order (Doc. 5) directing monthly payments be made from Nelson’s account is moot. The Lewis and Clark County Detention Center will not withdraw filing-fee payments from Nelson’s account. The Clerk of Court shall serve a copy of this Order on Lewis and Clark Detention Center.

DATED this 1st day of November, 2022.



Brian Morris, Chief District Judge
United States District Court